

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

FILOMENA BETTENCOURT,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-cv-02984

BOSTON SCIENTIFIC CORPORATION,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Defendant's Motion to Dismiss with Prejudice for plaintiff's failure to serve a Plaintiff Fact Sheet pursuant to deadlines and requirements established by the court's previous pretrial order. [ECF No. 23]. Plaintiff's counsel responded opposing the motion and stating that plaintiff has been unresponsive. [ECF No. 24].

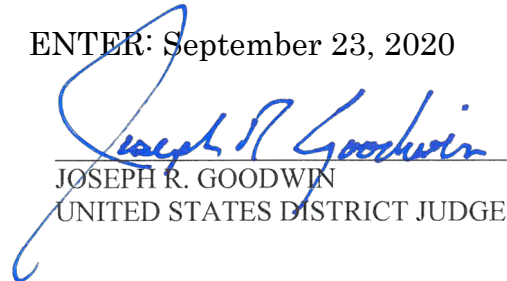
The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that Boston Scientific Corporation ("BSC") be dismissed without prejudice from this case for failure to serve a Plaintiff Fact Sheets in compliance with the court's previous pretrial order.

Therefore, the court **ORDERS** that Defendant's Motion to Dismiss with Prejudice [ECF No. 23] is **GRANTED in part** to the extent BSC seeks dismissal and **DENIED insofar as BSC seeks dismissal with prejudice**. The court **ORDERS** that

BSC is dismissed without prejudice, and this case is closed and stricken from the court's docket. The court **ORDERS** that any remaining pending motions are **DENIED** as moot.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: September 23, 2020



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE